

STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

MUR: No. 04-0068

STATEMENT OF REASONS OF EXTERNAL INVESTIGATIVE CONSULTANT

On behalf of the Citizens Clean Elections Commission (“Commission”), the External Investigative Consultant hereby provides the Statement of Reasons showing no reason to believe violations of the Citizens Clean Elections Act and Commission rules occurred.

I. Procedural Background

On March 13, 2005, Patrick Meyers (“Complainant”) filed a complaint against Ken Thomas (“Respondent”), a participating candidate for State Representative, District 12, alleging that Respondent failed to pay the vendor directly for goods and services. Exhibit A. On March 25, 2005, Respondent responded to the complaint and provided supporting documentation for the campaign expenditures. Exhibit B. Respondent’s campaign finance report for the 2004 election cycle is attached as Exhibit C.

II. Alleged Violations

1. Respondent reported payment of \$4,100.00 on September 6, 2004 to Mammen Pritchard for Printing of brochures and candidate postcards. Complainant alleges that Mammen Pritchard is not a printer or a mail house, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from Mammen Pritchard that offers sufficient detail that Suzanne Benoit provided the graphic design for \$250, Faith Brown Kerr provided the proofreading for \$48.40, Panoramic Press provided the printing for \$875.60, Harte Bindery provided the mail processing for \$300.00 and the postage was \$1,526.00. The invoice is attached with Exhibit B. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. Exhibit C.

2. Respondent reported payment of \$1,250.00 on September 6, 2004 to Petition Partners for street sign printing. Complainant alleges that Petition Partners is not a sign printing company and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from Petition Partners that offers sufficient detail that they indeed provided 50 street signs at \$25.00 a piece, for a total of \$1,250.00. The invoice is attached with Exhibit B.

3. Respondent reported payment of \$944.28 on September 6, 2004 to The Media Guys for media and printing commissions. Complainant alleges that The Media Guys was paid commissions for purchasing products from a third party vendor. Respondent provided an invoice from The Media Guys that offers sufficient detail. It is general practice for media companies, in addition to a flat fee, to charge a commission to compensate for variable work

done with outside consultants. The invoice details a graphic design fee of street signs for \$220.63, a print material brochure design fee in coordination with Mammen Pritchard for \$344.18 and a print material postcard mailer design fee in coordination with Mammen Pritchard for \$379.47. The invoice is attached with Exhibit B.

4. Respondent reported payment of \$3,271.05 on October 12, 2004 to The Media Guys for auto dial services, design services, consulting fee and photography. Complainant alleges that The Media Guys is not an auto dial vendor, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from The Media Guys that offers sufficient detail that indeed The Media Guys is an auto dial vendor. This service was not contracted out to another vendor. The invoice is attached with Exhibit B.

5. Respondent reported payment of \$4,540.00 on October 13, 2004 to Mammen Pritchard for direct mail printing, postage and handling for two separate mailers. Complainant alleges that The Media Guys is not a postage vendor or a mail house, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from Mammen Pritchard that offers sufficient detail that Cassidy Communications provided the graphic design for \$500.00, Faith Brown Kerr provided the proofreading for \$31.00, Andy N Co provided graphic design for \$225.00, Panoramic Press provided the printing for \$875.60, Harte Bindery provided the mail processing for \$300.00, the postage was \$1,508.40 and the consulting fee was \$1,100.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as the invoice was paid on October 13, 2004 and the work was performed prior to this date. The invoice was dated October 12, 2004, and was reported as expenditures within a timely manner.

As a participating candidate, Respondent was not required to file the trigger reports as expenditures were made prior to the general election. Pursuant to A.R.S §§ 16-941(B) & -958, nonparticipating candidate shall file an original and supplemental reports when expenditures exceed 70 percent and 10 percent, respectively, of the primary election spending limit and shall file the reports within one business day of reaching the trigger during the last two weeks of the election. Rather, participating candidates shall comply with the reporting deadlines set forth in A.R.S § 16-913(B)(3), which required all campaign activity that occurred between September 28 and October 13, 2004 be reported no later than October 21, 2004, in the Pre-General Report. Accordingly, Respondent complied with the reporting requirements applicable to participating candidates by reporting the expenditure to Mammen Pritchard for materials produced just days before the general election in the Pre-General Report.

6. Respondent reported payment of \$2,020.00 on October 13, 2004 to Petition Partners for printing of yard signs and walk piece brochures. Complainant alleges that Petition Partners is not a sign printing company, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from Petition Partners that offers sufficient detail that they provided the signs internally and did not subcontract out the services to a third party vendor. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B.

7. Respondent reported payment of \$6,919.41 on October 27, 2004 to The Media Guys for Cox Cable TV advertising and campaign mailings. Complainant alleges that The Media Guys contracted out the media commercials to Cox Cable, nor are they a printer, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from The Media Guys that offers sufficient detail for coordination of campaign mailings with Mammen Pritchard for \$1,070.47, coordination of Election Day signs and handouts with Petition Partners for \$348.94, advertising placement with Cox Media for \$5,000.00 and media production provided by The Media Guys for \$500.00. Respondent also provided an amended campaign finance report to reflect full name and street address of each vendor, a description of the goods and services provided and compensation for which the payments were made. The invoice is attached with Exhibit B.

Claimant also questioned if Respondent is reporting expenditures as they incurred, as the invoice was paid on October 27, 2004 and the work was performed prior to this date. The invoice was dated October 26, 2004, and was reported as expenditures within a timely manner, as previously explained.

8. Respondent reported payment of \$2,460.00 on November 22, 2004 to Petition Partners for printing of 2000 handouts and brochures. Complainant alleges that Petition Partners is not a sign printing company, and therefore the Respondent failed to pay the vendor directly. Respondent provided an invoice from Petition Partners that offers sufficient detail that they provided the signs internally and did not subcontract out the services to a third party vendor. The invoice is attached with Exhibit B.

III. No Reason to Believe Finding

Based on the complaint, Respondent's response, invoices and Respondent's campaign finance report, the External Investigative Consultant recommends the Commission finds no reason to believe violations of the Act or Commission rules occurred. Pursuant to A.A.C. R2-20-206, the Commission shall dismiss the complaint upon finding no reason to believe the alleged violations occurred.

Dated this ____ day of July, 2005

By: _____
L. Gene Lemon
External Investigative Consultant